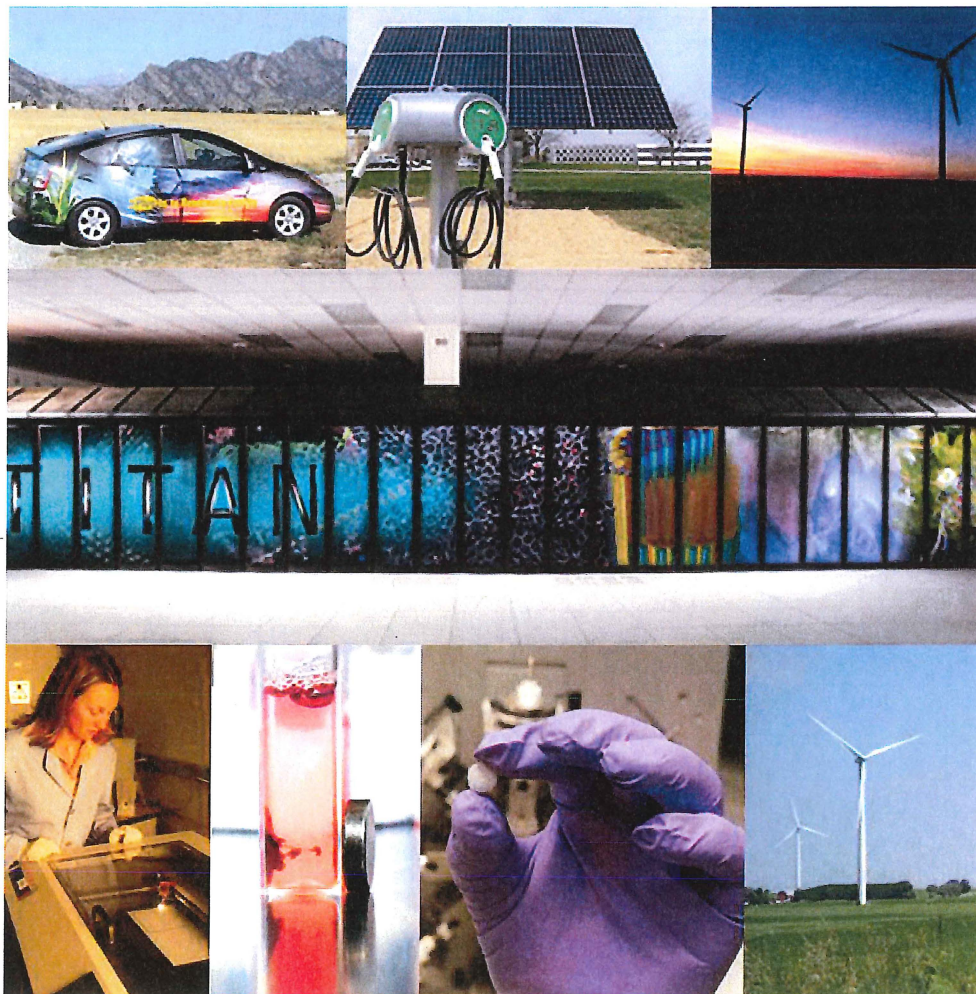




## TITLE IX COMPLIANCE REVIEW REPORT

**University of Delaware**  
Department of Physics and Astronomy



Office of Civil Rights  
January 2017

# **TITLE IX COMPLIANCE REVIEW REPORT**

## **University of Delaware Department of Physics and Astronomy's Graduate Programs**

<b>I.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
	A. Background.....	1
	B. Objective.....	2
	C. Scope.....	2
<b>II.</b>	<b>STUDENTS, FACULTY, STAFF, AND ADMINISTRATORS.....</b>	<b>3</b>
	A. Student Enrollment.....	3
	B. Faculty, Staff, and Administrators.....	3
<b>III.</b>	<b>OUTREACH AND RECRUITMENT.....</b>	<b>3</b>
	A. Recruitment and Outreach Events and Activities.....	3
	B. Findings.....	4
<b>IV.</b>	<b>ADMISSIONS PROCESS.....</b>	<b>5</b>
	A. Background.....	5
	B. Admissions Process.....	5
	C. Admissions Statistics.....	6
	D. Findings.....	6
<b>V.</b>	<b>LEAVE OF ABSENCE AND RE-ENROLLMENT POLICIES.....</b>	<b>7</b>
	A. Time Requirements for Degree Completion and Extension of Time.....	7
	B. General Leave of Absence Policies and Continuous Registration.....	8
	C. Parental Leave Policies.....	8
	D. Academic Dismissal and Re-entry.....	9
	E. Exceptions to Policies.....	9
	F. Retention.....	9
	G. Findings.....	9
<b>VI.</b>	<b>STUDENT FINANCIAL ASSISTANCE.....</b>	<b>9</b>
	A. Teaching Assistantships, Research Assistantships and Research Fellowships.....	10
	1. Selection Process.....	10
	2. Distribution of Assistantships and Fellowships.....	11
	B. Recruitment Incentives.....	11
	C. Achievement Awards.....	11
	D. Findings.....	12
<b>VII.</b>	<b>REQUIREMENTS FOR COMPLETION OF A GRADUATE DEGREE IN THE DPA.....</b>	<b>12</b>
	A. Master's Degree.....	13
	B. PhD Degree.....	13
	1. PhD Candidacy Exam.....	13
	a. Written Component.....	13
	b. Oral Component.....	14
	2. Doctoral Dissertation and Defense.....	14
	a. Role of the PhD Committee.....	15
	b. Composition of the PhD Committee.....	15
	3. Candidacy Examination Pass/Fail Rates.....	15

4. Dissertation Pass/Fail Rates.....	15
C. Findings.....	15
<b>VIII. THE ENVIRONMENT.....</b>	<b>16</b>
A. Academic Climate.....	16
B. Campus Safety.....	17
C. Child Care.....	17
D. Findings and Recommendations.....	18
<b>IX. TITLE IX COORDINATOR, NON-DISCRIMINATION POLICY, AND TITLE IX GRIEVANCE PROCEDURES.....</b>	<b>18</b>
A. The Title IX Coordinator and Notification Requirements.....	19
1. Student and Faculty Awareness of Title IX and the Title IX Coordinator.....	20
2. Preliminary Observations Announced During On-Campus Visit.....	21
3. Findings and Recommendations.....	22
B. Title IX Complaint Procedures and Processes.....	23
1. Who May File a Complaint? When Must the Complaint be Filed?.....	24
2. Complaint and Investigation Procedures.....	24
a. Responsibility to Report Complaint.....	24
b. Title IX's Coordinator Initial Processing of Complaint.....	24
c. Confidential Disclosure of Sexual Misconduct.....	26
d. Interim Measures.....	26
e. Investigation of Complaint.....	26
f. Findings of the Investigation and Report.....	27
g. Sanctioning.....	27
h. Appeal Processes.....	28
3. Findings and Recommendations.....	29
C. Title IX Related Complaints/Concerns.....	29
<b>XI. CONCLUSION.....</b>	<b>30</b>

# **TITLE IX COMPLIANCE REVIEW REPORT**

## **University of Delaware Department of Physics and Astronomy's Graduate Programs**

### **I. Introduction**

The Office of Civil Rights (OCR) of the United States Department of Energy (DOE or the Department), conducted a Title IX compliance review of the University of Delaware's (University) Department of Physics and Astronomy's (DPA) graduate programs for the academic years 2007-2008 through 2011-2012. The compliance review was conducted pursuant to Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. Section 1681, *et seq.*, and DOE's implementing regulations at 10 C.F.R. Parts 1040 and 1042 (2013). This report is based on a review of records and other data provided by the University, information obtained from the University and the DPA's websites, and information obtained through interviews of students, faculty, and administrators of the DPA's graduate programs, the University's Title IX Coordinator, and other University administrative officials.

#### **A. Background**

The Department supports a diverse portfolio of research at colleges, universities, and research institutions across the United States, providing funding to more than 300 such institutions every year. The funding provided by DOE for research at universities and colleges supports thousands of principal investigators, graduate students, and post-doctoral researchers.

Title IX and DOE Title IX implementing regulations prohibit recipients of federal financial assistance, such as universities and colleges, from discriminating on the basis of sex in any of their educational programs or activities. 20 U.S.C. § 1681(a); 10 C.F.R. § 1042.100 (2013). In addition, DOE Title IX implementing regulations require the Department to periodically conduct compliance reviews of recipients of DOE financial assistance to ensure compliance with the nondiscrimination requirements of Title IX. *See* 10 C.F.R. §§ 1042.605, 1040.101(a) (2013).

In July 2004, the Government Accountability Office (GAO) issued a report (GAO-04-639) entitled, "GENDER ISSUES: Women's Participation in the Sciences has Increased, but Agencies Need to do More to Ensure Compliance with Title IX." The purpose of the report was two-fold: (1) to report on the status of women in the sciences; and (2) to evaluate the Title IX compliance activities of the four federal science agencies—the Department of Energy, Department of Education, National Aeronautics and Space Administration, and National Science Foundation. With respect to the status of women in the sciences, the GAO reported that the participation of women in the sciences at the undergraduate and graduate levels had increased over the past thirty years; however, the GAO reported that "[w]omen continue to major in the sciences and earn degrees in the sciences to a lesser extent than men." The GAO also noted that some studies suggest that sex discrimination may still affect women's choices and professional progress in the sciences. With respect to the Title IX compliance activities of the four federal

science agencies, the GAO found that the agencies had taken steps, through conducting complaint investigations and instituting technical assistance provisions, to ensure that the institutions to which they provide financial assistance are in compliance with Title IX. However, the GAO noted that “[g]iven the general lack of knowledge and familiarity with the reach of Title IX and the disincentives for filing complaints against superiors,” the agencies needed to do more to judge whether sex discrimination exists in the sciences. To that end, the GAO made recommendations specific to each of the four federal science agencies. With respect to the Department, the GAO recommended that the Secretary of Energy ensure that compliance reviews of grantees are periodically conducted.

In August 2007, Congress passed, and the President signed into law, the America COMPETES Act, Pub. L. No. 110-69, § 5010, 121 Stat. 572, 620 (2007), which provided an additional impetus for the Department to conduct compliance reviews. The Act states that the Department should: (1) implement the recommendations contained in the GAO report; and (2) conduct at least two Title IX compliance reviews annually of recipients of DOE financial assistance.

In Fiscal Year 2012, the Department conducted Title IX compliance reviews of physics programs at two universities to which it provides financial assistance, including the DPA.

## **B. Objective**

The objective of the Title IX compliance review at the DPA was three-fold: (1) to determine whether male and female applicants and students had equal access to the opportunities and benefits offered by the DPA’s graduate programs; (2) to determine whether the DPA was in compliance with the requirements of Title IX and DOE Title IX implementing regulations; and (3) to identify and report on any promising practices instituted by the University and the DPA for promoting equity among male and female students and applicants.

## **C. Scope**

The OCR elected to review the DPA’s graduate programs for the academic years (AY) 2007-2008 through 2011-2012. To determine whether graduate applicants and students, regardless of their sex, had equal access to opportunities and benefits offered, the OCR evaluated the following areas and/or practices of the DPA’s graduate programs: (1) student enrollment; (2) recruitment and outreach efforts; (3) admission policies; (4) leave of absence and re-admission policies; (5) financial assistance opportunities; (6) graduate examination and writing requirements; (7) the academic climate; (8) student safety; and (9) on campus child care services.

To determine whether the University was in compliance with the requirements of Title IX and DOE Title IX implementing regulations, the OCR evaluated the following: (1) whether the University has designated a Title IX Coordinator; (2) whether the University has taken continuing steps to notify the campus community about its nondiscrimination policies related to Title IX; and (3) whether the University has adopted and published grievance procedures providing for the prompt and equitable resolution of Title IX-related complaints, including sex discrimination and sexual harassment complaints.

## **II. Students, Faculty, Staff, and Administrators**

### **A. Student Enrollment**

At the time of the review, the DPA had eighty-seven students enrolled in its master of science (M.S.) and doctoral (Ph.D.) degree programs. Of those students, sixty-nine (79%) were male and eighteen (21%) were female. During its on-campus visit, the compliance team interviewed approximately 36 students (12 females and 24 males) as a part of the review process.

The table below shows the enrollment of students, by gender in the M.S. and Ph.D. programs for AYs 2007-2008 through 2011-2012. There was one part-time student during this time a period, who was a male enrolled for the academic year 2011-2012.

#### **Graduate Physics and Astronomy Student Enrollment (includes MS and PhD students)**

<b>Academic Year</b>	<b>Total Enrolled</b>	<b>Male</b>	<b>% Male</b>	<b>Female</b>	<b>% Female</b>
2007-2008	84	63	75	21	25
2008-2009	82	59	72	23	28
2009-2010	80	61	76	19	24
2010-2011	89	70	79	19	21
2011-2012	87	69	79	18	21

### **B. Faculty, Staff, and Administrators**

At the time of the review, DPA's graduate programs had approximately thirty-eight faculty members (thirty-four males and four females) within its graduate programs. The compliance review team interviewed approximately twenty-five faculty members, staff, and administrators (eight females and seventeen males), including the Dean of College of Arts and Sciences, Vice Provost of Graduate and Professional Education, Chair of the DPA, the Graduate Program Coordinator at the DPA, and the Title IX Coordinator.

## **III. Outreach and Recruitment**

DOE Title IX implementing regulations prohibit recipients of financial assistance from discriminating on the basis of sex in the recruitment of students. 10 C.F.R. § 1042.310 (2013). To determine whether DPA's graduate programs were in compliance with this provision, the OCR reviewed their recruitment and outreach activities.

### **A. Recruitment and Outreach Events and Activities**

The DPA engages in a variety of recruitment and outreach events and activities to attract students to its graduate programs. As part of its outreach efforts, the DPA enlists its graduate students to participate in various educational and mentorship programs targeting K-12 partners and students in Science, Technology, Engineering and Math (STEM) content. Two of these programs that occurred during the academic year 2010-2011 target women – one is a high school

mentoring program through Women in Engineering and the other is participation in the Annual American Association of University Women Math-Science Luncheon. Hence, the DPA's outreach efforts reach far down the pipeline into the K-12 audience to attract younger students, and particularly, girls, to STEM fields of study and careers. The DOE considers such efforts to attract both male and female students at a young age to STEM fields as promising practices that could be used as a model for other universities to follow.

In recruiting for its graduate programs, the DPA lists information about its programs in the American Institute of Physics Graduate Book and online at GradschoolShopper.com. In addition, the DPA mails flyers and posters to Department chairs and/or faculty advisors of physics student chapters at colleges and universities in the geographic region or internationally. The DPA also sends electronic mail with a description of its graduate programs to students from underrepresented minority groups who have expressed an interest in physics. These students are identified through various name-exchange lists, such as the McNair Scholars. Moreover, faculty are encouraged to network with colleagues and students at other institutions to raise awareness about the graduate physics and astronomy programs. In addition, admissions committee members make phone calls to applications to inquire if they have any questions about the graduate program or research opportunities. Prospective students and applicants are also invited to visit the DPA and meet with faculty and students. The DPA also makes efforts to connect prospective students with matriculated students from their home country or undergraduate institution.

During the period under review, the University stated that nine female and thirty male prospective graduate students participated in the outreach and recruiting efforts of the DPA's graduate programs. Of those prospective students, seven females and all thirty of the males applied, and they were all admitted to a graduate program in the DPA.

Although the University participates in a variety of outreach and recruiting events and activities, most of the students interviewed stated that they were not specifically recruited by the University. Most of the students interviewed stated that they were attracted to the DPA's graduate programs because of the DPA's program and professors. Nonetheless, the University's responses to DOE's data requests indicate that the DPA's recruiting and outreach efforts are quite successful, with only two out of thirty-nine prospective students opting not to apply for admission.

## **B. Findings**

The Department has found no evidence of discrimination based on sex in the recruitment and outreach efforts of the DPA. Therefore, the Department finds that the recruitment and outreach efforts outlined above comply with the nondiscrimination requirements of Title IX and DOE Title IX implementing regulations.

## **IV. Admissions**

DOE Title IX implementing regulations prohibit recipients of financial assistance from discriminating on the basis of sex in the admission of applicants. 10 C.F.R. § 1042.300 (2013). In determining whether a person satisfies a criterion for admission, or in making any offer of admission,

recipients are prohibited from the following: giving preference to one person over another on the basis of sex; applying numerical limitations upon the number or proportion of persons of either sex who may be admitted; or otherwise treating one individual differently from another on the basis of sex. *Id.*

### **A. Background**

The University of Delaware has a centralized graduate admissions process, whereby prospective applications for the DPA apply for admission through the Office of Graduate and Professional Education (OGPE). Applications to the DPA's graduate programs are online. Applicants interested in pursuing a graduate degree in the DPA are required to list the Graduate Program in the "Program of Study" section of the application. Both M.S. and PhD applicants are required to submit an application, resume, three letters of recommendation, their GRE and Test of English as a Foreign Language (TOEFL) (for international applicants) scores, a personal statement, and transcripts.

### **B. Admissions Process**

The DPA's website does not state a minimum GRE score required for admission, but advises applicants that they should have a minimum undergraduate grade point average of 3.2 for consideration to its graduate programs. The DPA's website is silent with regard to coursework applicants are required to have taken as an undergraduate. The OGPE's website directs readers to departmental websites for their minimum requirements.

The following factors are considered in ranking applicants for admission to the DPA's graduate programs.

- GRE physics subject test scores
- GRE quantitative, verbal, and analytical scores
- TOEFL scores
- Academic transcript and grade point average
- Letters of recommendation
- Research experience
- Publications, especially first author
- Personal statement
- Fellowships or scholarships from external sources enabling the student to be self-supported
- Alignment of student research interests with the department's active research programs

During the OCR on-campus review, a few administrators and faculty described the admissions process during their interviews. The OGPE receives the applications and make sure that they meet the minimum standards before they are given to the specific graduate programs, such as the DPA. Subsequently, the Graduate Admissions Committee of the DPA reviews the application materials, selects a short list of candidates for faculty to interview over the telephone, and then after the interview, faculty make a recommendation to the Graduate Admissions Committee of who should be granted admission. Gender is not a factor in the admissions process. During the

interviews, students were asked about the admissions process and none indicated that they believed that it was an unfair process.

### C. Admissions Statistics

The table below shows the number and percentage of students, by sex, who applied and were admitted to the DPA program from AY 2007-2008 to AY 2012-2013. The table also shows the total number of male and female students enrolled in the DPA program for the same time period.

#### **DPA Program—Applicants, Admissions, and New Enrollment per Academic Year**

Doctoral Program		Male		Female	
2007-2008	No. of Applicants	92	80%	23	20%
	No. Admitted	26	28%	6	23%
	No. Enrolled*	7	27%	2	33%
2008-2009	No. of Applicants	97	75%	33	25%
	No. Admitted	38	39%	10	30%
	No. Enrolled*	7	18%	4	40%
2009-2010	No. of Applicants	88	79%	24	21%
	No. Admitted	32	36%	7	29%
	No. Enrolled*	16	50%	4	57%
2010-2011	No. of Applicants	145	80%	38	20%
	No. Admitted	37	25%	5	13%
	No. Enrolled*	12	32%	2	40%
2011-2012	No. of Applicants	118	76%	37	24%
	No. Admitted	46	38%	13	35%
	No. Enrolled*	15	33%	1	8%

\* 'Admitted' percentage # is the percentage of 'Applicant' male or female students that were admitted.

\*\* 'Enrolled' percentage # is the percentage of 'Admitted' male or female students that enrolled.

Although the statistics do not indicate any evidence of disparate treatment in the admission's process, an examination of the table above show one instance in which males were admitted to the Ph.D. program at a significantly<sup>1</sup> higher rate than females which occurred in 2010-11. During this year, males were admitted at a rate of 25% while women were only admitted at 13% of the time. (The number of students that applied, were admitted, and enrolled into the M.S. program is extremely small; thus, no conclusions can be drawn). In all other years of the review period, the negative disparity in which women were admitted ranged from 3% to 9%.

---

<sup>1</sup> 10 percent or more.

Background materials submitted by DPA did not provide additional detail as to the deficiency in female student applications which resulted in their lower admission rate.

#### **D. Findings**

Although the review demonstrated no evidence of disparate treatment in the admission's process, an examination of admission statistics indicates that in all years under review male applicants were admitted at a higher rate than females including one year where the disparity was over 10%. However, when evaluating the entire five-year period covered in the review, the statistics show a fairly small variance between the percentage of male and female applicants that were admitted to the Ph.D. program (9%). The application and admissions processes for DPA's graduate programs are facially neutral, and there is no evidence to suggest that an applicant's sex is a factor considered when determining whether to extend an offer of admission into the M.S. or Ph.D. program. Based on the information above, the DOE concludes that the DPA's graduate physics and astronomy's admissions processes and procedures are in compliance with the non-discrimination requirements of Title IX and the DOE Title IX implementing regulations. However, the DOE encourages DPA to take a closer look at where the female students' applications are deficient to ensure that application decisions are being made solely on neutral criteria.

#### **V. Leave of Absence and Re-Enrollment Policies**

DOE Title IX implementing regulations state that "no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic . . . or other education program or activity operated by a recipient" of financial assistance. 10 C.F.R. § 1042.400 (2013). The Department evaluated the DPA's leave of absence and re-enrollment policies to determine whether they comply with this general provision of nondiscrimination on the basis of sex.

The DPA's graduate programs follow its OGPE's policies and procedures for graduate students who wish to take a leave of absence and for students requesting readmission. Unless on an approved leave of absence, graduate students must be registered continuously at DPA during the fall and spring semesters.

##### **A. Time Requirements for Degree Completion and Extension of Time**

Time limits for the completion of degree requirements begin with the date of matriculation and are specifically expressed in the student's letter of admission. Students have ten consecutive semesters to complete the degree requirements for a master's degree program. Students completing the requirements for the master's degree and who are subsequently granted permission to continue toward the doctoral degree are given an additional ten consecutive semesters. Students entering a doctoral program with a master's degree are given ten consecutive semesters to complete the requirements. Students entering a doctoral program without a master's degree are given fourteen consecutive semesters to complete the requirements. Students who change their degree plan and have transferred from one degree program to another degree program are given ten consecutive semesters from the beginning of the first year in the latest program.

Requests for time extensions must be made in writing and approved by the student's advisory committee and the chair of the DPA graduate committee. The DPA forwards the request to the OGPE to determine the student's eligibility for a time extension and/or approval.

### **B. General Leave of Absence Policies and Continuous Registration**

Graduate students who seek a leave of absence for personal, medical, or professional reasons must obtain written approval from the chair or graduate program coordinator of their academic unit. The request and the recommendation from the department, along with the length of time needed for the leave, must be sent to the OGPE for approval. A student's approved leave of absence does not affect the limitation of time for completion of his or her degree requirements.

Graduate students are required to maintain continuous registration for continued eligibility in their degree program, unless they have been granted a formal leave of absence. Failure to maintain continuous registration without a formal leave of absence will be construed as evidence that the student has terminated their graduate program and the student's admitted status will be terminated.

### **C. Parental Leave Policies**

While most of the students did not have any comments about parental leave, one student said that she delayed her pregnancy because she did not think that the University allowed women to take maternity leave. In its response to the DOE's data request, the DPA indicated that OGPE was expected to adopt a parental accommodation policy in the summer of 2012 and provided a draft policy covering all types of graduate student leave, including for parental accommodation. Indeed, according to a recent review of their website, the University has adopted leave of absence policy for "Accommodations for Parental Responsibilities." According to the policy, students seeking parental leave may make short-term arrangements with their advisor and the director of graduate studies. Students are encouraged to start making these arrangements at least three months before their leave or accommodation begins. Students who are making satisfactory progress towards their degree requirements are eligible for a parental accommodation any time after their matriculation.

Full-time graduate students in years one through six may request parental support and relief for the semester that the birth of their child or adoption occurs. For that entire semester, the student may request to stop the clock in their studies, effectively adding another semester to the total time to degree. The student remains registered during this time and if the student is on a contract, the student will receive for a six-week period of time the full financial package as indicated in their contract letter and their departmental academic expectations will be modified in light of their situation. The nature of the modification or academic responsibilities undertaken during his period will be discussed between the advisor, student and OGPE. Also, the student is entitled to unpaid leave for the duration of a 14-week course, which is one semester, and in any 12-month period for parental responsibilities. The University will support two periods of accommodation for students on contract for maternity or paternity care during their

matriculation. However, funding based on this accommodation does not extend the total years of funding available to the student.

#### **D. Academic Dismissal and Re-entry**

Students who have been subject to an academic dismissal may appeal their termination to OGPE within ten class days from when the student was notified for their dismissal. The Vice Provost reviews the appeals, deciding whether to uphold it, reinstate the student, or refer the case to the Graduate Hearing Board for resolution. Dismissed students may re-apply through the admissions process and be admitted as a matriculated graduate student in a different major. Graduate students may only be readmitted one time to a different major for academic dismissal.

Students who have officially withdrawn from a graduate program, or students who have completed a terminal degree program and subsequently seek to reenter the University for further graduate study, must apply for admission through the same process as anyone else seeking admission to graduate study. Students continuing in a doctoral program immediately after completing the master's degree in the same major may request a change of program.

#### **E. Exceptions to Policies**

Exceptions to policies may be requested of the OGPE. Requests for exceptions should cite the policy, justify the request, and provide appropriate departmental support for the request from the graduate student's advisor, the graduate program director, and department chair.

#### **F. Retention**

According to the University's records, eight male students and one female student dropped out of the graduate physics program during the 2007-2008, 2008-2009, 2009-2010, and 2010-2011 academic years. Six of the males were Ph.D. students and two were M.S. students. The female student was in the Ph.D. program.

#### **G. Findings**

DOE finds no evidence of discrimination based on sex in the administration of the policies and procedures related to time limits imposed for degree completion, requests for leaves of absence, requests for readmission, and requests for exceptions. While the DOE originally had concerns about the University's lack of parental leave and accommodations, the University has since developed a policy for parental accommodations for graduate students, addressing maternal and paternal leave. These policies allow male and female graduate students at the DPA to address personal family needs and to balance those needs with their academic careers. Therefore, we find that the University's graduate programs are in compliance with Title IX and DOE implementing regulations regarding nondiscrimination.

### **VI. Student Financial Assistance**

DOE Title IX implementing regulations state that in providing financial assistance to any of its students, a recipient shall not, on the basis of sex, provide different amounts or types of such

assistance, limit eligibility for such assistance, apply different criteria, or otherwise discriminate. 10 C.F.R. § 1042.430 (2013). The DOE evaluated the different types of financial assistance made available by the DPA to its students, to determine compliance with this provision.

According to the DPA, graduate students entering the physics program may be granted support upon admission, which is typically in the form of a graduate assistantship/teaching assistantship appointment from the department. After a student passes the Preliminary Examination, he/she is often supported by a research assistantship from the advisor's research group. In extraordinary cases, a research group may offer a research assistantship from the beginning.

#### **A. Teaching Assistantships, Research Assistantships and Research Fellowships**

The DPA offers financial assistance to its graduate students in the form of fellowships, research assistantships (RA), or teaching assistantships (TA). The DPA offers a one-time fellowship to prospective first year students and it is limited and only offered to highly qualified individuals. RAs are offered by faculty members and funded through grants and contracts. However, the DPA may decide to fund a senior graduate student as an RA for a limited time if the student is making academic progress and there has been a lapse in their research advisor's funding. TAs are available in the fall, spring and winter semesters, and fewer are available during the summer semester. Typically, a full-time TA in the fall and spring consists of four to five 50-minute discussion sections or three to four two-hour sections in the laboratory. If an international student's English proficiency and pedagogical skills renders them ineligible to serve as a TA in a classroom setting, they may be assigned grader duties. Many of the students who were interviewed participated in the fellowship program, or were TAs or RAs and received financial assistance through the appointment. No students complained about the selection process for the fellowship or assistantships.

##### **1. Selection Process**

Fellowships and assistantships are awarded by nomination by the DPA. However, the DPA does not have policies or procedures for applications and selection for a fellowship or assistantship. Rather, the DPA stated that the OGPE policies and procedures are considered in making these selections. Accordingly, students who are awarded a fellowship or assistantship must meet the following criteria: 1) be classified as a full-time student and registered in graduate level courses during each semester of award, 2) be in good academic standing (3.00 cumulative GPA), 3) maintain a cumulative GPA of 3.00, and 4) be classified as regular standing in the program.

## *2. Distribution of Assistantships and Fellowships*

The DPA provided information on the distribution of assistantships and fellowships based on gender during the five-year period. The table below shows award types by gender for each of the five years under review.

	2007-2008		2008-2009		2009-2010		2010-2011		2011-2012	
	M	F	M	F	M	F	M	F	M	F
Fellows	6	2	6	3	7	3	5	1	7	0
RAs	24	5	26	11	27	6	33	7	33	7
TAs	18	10	16	5	20	8	18	7	26	7

Over the five year period, forty students received fellowships, and 22% (nine) of those fellowships were awarded to women, and 73% (thirty-one) were awarded to men. 179 students served as research assistantships and 135 served as teaching assistants during the five-year academic period. Twenty percent (thirty-six) of the RAs were women, whereas 80% (143) were men, and 27% (thirty-seven) of the TAs were women and 73% (ninety-eight) were men. Thus, women were consistently in the 20<sup>th</sup> percentile in receiving these opportunities at the DPA which is on par with their overall representation of the student body.

### **B. Recruitment Incentives**

According to the University, when the DPA's financial situation allows, a recruitment incentive is offered during the first year to highly qualified Ph.D. candidates. All offers of recruitment are for the same amount, which is calculated so that the total salary (stipend plus fellowship) is comparable to that of a graduate fellowship with the National Science Foundation. The DPA does not have policies or procedures relating to recruiting incentives. However, the following factors are considered when determining whether to offer a recruitment incentive to a prospective graduate student: 1) GRE physics subject test score; 2) academic transcript and GPA; 3) letters of recommendation; 4) research experience; and 5) publications, especially first author. The University states that all offers of recruitment incentives are for the same amount. During the period under review, recruitment incentives were offered to five prospective female Ph.D. students (22%) and 18 prospective male Ph.D. students (78%).

### **C. Achievement Awards**

The DPA selects graduate students for achievement awards, which are the Best Teaching Assistant Award and the Diacar Bata Award. The Best TA Award is awarded based on work done during the previous calendar year. Specifically, the DPA considers the following criteria in making the award determination for the Best TA Award: course aspects (number and diversity of courses taught); student aspects (quality of teaching, dedication to teaching, and ability to engage and instill critical thinking); impact beyond the classroom (contributions to instruction above and beyond call of duty and impact on department); and personal aspects (knowledge of the subject, respect for students, passion, enthusiasm, creativity and self-improvement). Students can be

nominated for the award by faculty, staff, instructors or students with the nominator providing a statement outlining why that student should receive the award. Additionally, statements from the course instructor(s) for whom the student served as a TA and the nominee's resume complete the nomination package.

The Daicar Bata Award is awarded to two students annually – one who achieved the highest GPA from their first six semesters and another who wrote the best research paper. For the highest GPA award, the Graduate Review Committee reviews Ph.D. student transcripts. For the best research paper award, nominations are solicited and initiated by the Director of the Graduate Program. Students can be nominated by their research advisor, faculty, colleagues, or other students. Nominations must include a copy of the paper, a statement as to why the paper merits the prize and is significant, an explanation of the content, and the main results of the paper that the nominated student provides.

The DPA provided information on the distribution of the achievement awards based on gender during the five-year reporting period. A total of five women and seven men received achievement awards during the reporting period.

A faculty member who is the Co-Chair of the Student Awards Committee stated that the Committee is comprised of six faculty members, including one woman faculty member, who select award winners. Both male and female students have equal access to the awards.

#### **D. Findings**

The DOE has found no evidence suggesting discrimination based on sex in the award of financial assistance to graduate students, in the selection process for the assistantships and fellowships, or in the awards of recruitment incentives or achievement awards. There was no evidence that the DPA provided different types of such assistance, limited eligibility for such assistance, applied different criteria for such assistance, or otherwise discriminated on the basis of sex in providing such assistance. Indeed, the percentage of women who received financial assistance was in the 20<sup>th</sup> percentile which is consistent with the percentage of women enrolled in the DPA's graduate programs. As to the awards, more than half of the awardees during the reporting period were women. Thus, based on the information above, DOE concludes that the University is in compliance with Title IX and DOE implementing regulations with regard to the various financial assistance opportunities for graduate students.

#### **VII. Requirements for Completion of a Graduate Degree in the DPA**

DOE Title IX implementing regulations state that “no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient” of financial assistance. 10 C.F.R. § 1042.400 (2013). The Department evaluated the DPA's requirements for obtaining a Master's Degree and a Ph.D. by reviewing the DPA's administration of the oral candidacy examination, the dissertation defense,

and the dissertation approval process to determine whether the DPA complies with this general provision of nondiscrimination on the basis of sex.

### **A. Master's Degree**

The DPA's M.S. program has two options: non-thesis and thesis. The purpose of the M.S. thesis is to demonstrate that the student can conduct research under supervision and communicate the results clearly in English. For the thesis option, in addition to required coursework, students are required to conduct research and defend an oral examination administered by a committee of three members of the DPA.

For the non-thesis option, in addition to required coursework, each student is required to survey literature on a current topic in physics or astronomy, write a report on this topic, and make a public presentation to the DPA, represented by three members of its faculty (appointed by the Director of the Graduate Program with approval of the Chair of the Department).

### **B. Ph.D. Degree**

Students may enter the DPA's Ph.D. program after successfully completing an M.S. degree program, or may be admitted directly to the Ph.D. program directly after a Bachelor's degree. To obtain a Ph.D., students will normally follow the course intensive *regular track*. Students entering the program with an M.S. degree in physics or astronomy that are particularly well prepared may choose to follow the less coursework intensive *fast track*.

In addition to course work, Ph.D. students must pass the Candidacy Examination, which has oral and written components. Ph.D. students must also write a dissertation showing originality of thought and scholarship upon successful completion of a research program. The dissertation is defended in an oral examination administered by the student's dissertation committee.

#### **1. *Ph.D. Candidacy Exam***

##### **a. Written Component**

All students in the Ph.D. program must pass the written part of the Ph.D. candidacy exam. If a student on the fast track has not passed the written part of the exam after two semesters, the Graduate Review Committee reviews the student's progress and issues a determination as to whether the student should remain on the fast track or should shift to the regular track. The exam is given twice a year, in late January and in late August.

The exam is graded as a whole and consists of four sections, each with four problems, and is composed by a committee of eight members. The exam tests four basic subjects at the advanced undergraduate level, and the problems correspond closely to material in specific textbooks known in advance by the students. Each of four subcommittees provides problems for one exam section. The whole committee meets to edit and select among these problems. Each of the sixteen problems on the exam is graded independently by two professors on a scale of one-to-ten. If they disagree by more than two points for a student, then they must meet and "reconcile" the

grades. The pass/fail decisions are by a vote of the whole faculty. Generally, it is anticipated that students scoring 60% or higher will pass, but the actual pass mark for the exam under consideration may vary. Students scoring slightly below that mark are sometimes passed outright or on condition that a certain course is passed with at least a B, especially if the exam is deemed unusually difficult. In practice, scores at or above 65% result in an automatic pass, while scores below 55% usually result in an automatic fail.

#### **b. Oral Component**

Within eighteen months after passing the written part of the Ph.D. candidacy exam, the candidate must make an oral presentation on the proposed dissertation research to a committee consisting of the members of the Ph.D. dissertation committee and two additional members appointed by the director of the graduate program. This committee's examination is focused on evaluating the student's proposed research program. A student who fails the oral examination has one opportunity to retake the exam within six months of the original examination.

Students are instructed to prepare an oral presentation related to their research activities to date and on the proposed dissertation research. The committee examines the students on matters regarding their current research and the proposed research program. Committee members ask their own questions related to: the student's understanding of fundamental physics related to his/her field of specialty; technical aspects of the proposed research; feasibility; adequacy of literature survey of previous related work; motivation and originality of proposed research. Each member of the committee then decides whether the student passes or fails the exam, and the committee's determination is based on the majority decision.

### **2. *Doctoral Dissertation and Defense***

Upon successful completion of a research program, the Ph.D. candidate must write a dissertation showing originality of thought and scholarship, properly expressed in English. The dissertation is defended in an oral examination administered by the student's dissertation or doctoral committee. The committee may require that changes or revisions be made to the dissertation. The final oral examination is not considered to have been passed until the dissertation revisions have satisfied the committee. In general, doctoral committees should strive to achieve consensus concerning the student's performance and quality of work. In the case of dissenting votes, the majority opinion rules and a majority vote in favor is needed for a successful defense.

Dissertation defenses are assessed on the demonstrated ability to conduct and complete a research project independently, and the following factors are considered in making this determination:

- a statement of the scientific question or hypothesis;
- motivation for addressing it;
- an adequate literature survey;
- substantial data collection, generation or theoretical development;
- thoughtful analysis of data and its interpretation; and
- contribution to scientific understanding of the topic.

Students must also demonstrate an ability to communicate results clearly in English and to address scientific and technical questions by the committee.

**a. Role of the Ph.D. Committee**

Within six months of passing the written part of the Ph.D. Candidacy Examination, the candidate, with his or her advisor, decides upon the composition of the dissertation committee. The Ph.D. candidate provides the Ph.D. committee members with an annual report (due May 15) outlining the progress made and plans for the following year. At least six months prior to the anticipated defense of the dissertation, the candidate will make a written and oral presentation to the dissertation committee.

**b. Composition of the Ph.D. Committee**

Each dissertation committee must consist of between four and six members. At least one committee member must be from an academic unit other than the department of the advisor, or from an institution or organization external to the University. The chair of the committee is the faculty member in charge of the candidate's research and dissertation. At least one member of the committee must be a member of the DPA's faculty from a research area distinct from that of the candidate.

**3. *Candidacy Examination Pass/Fail Rates***

Data provided by the University shows that no Ph.D. candidate failed the oral candidacy examination during the 5-year period under review. For the written candidacy examination, only three women and fifteen men passed during their first attempt, whereas nine women and twenty-three men failed during their first attempt. In their second attempt for the written candidacy examination, six women and nineteen men passed; however, three women and nine men failed in their second attempt. When interviewed, the students did not state that they perceived the candidacy examination or process to be gender-based or biased.

**4. *Dissertation Pass/Fail Rates***

Data provided by the University shows that no Ph.D. candidate failed the dissertation requirements during the 5-year period under review.

**C. Findings**

The DOE reviewed the policies, procedures, and grading methods related to the DPA's candidacy examination and dissertation defense requirements, and found no evidence of bias or gender-disparity in the manner in which the examinations were administered or graded. It's noteworthy that during the five-year period under review, that female students were more successful in making degree progress. During this period eight males dropped out and only one female student did.

Therefore, the DOE finds that the DPA's administration for the M.S. and Ph.D. requirements complies with the nondiscrimination requirements of Title IX and DOE Title IX implementing regulations.

### **VIII. The Environment**

As noted previously, DOE Title IX implementing regulations state that "no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient" of financial assistance. 10 C.F.R. § 1042.400 (2013). Consistent with this provision, the Department evaluated the academic climate within the DPA, as well as campus safety, gender bias and sexual harassment, and availability of child care, to determine whether any of these aspects had the effect of excluding students from participation in the DPA programs or activities on the basis of their sex.

#### **A. Academic Climate**

Most of the students that were interviewed stated that they did not believe that gender affected any aspect of their studies. However, a few students had thoughts on how gender affects their peers or learning environment. For example, one student reported that there is a stigma that women and minorities get what they want and another stated that professors are kinder to female students. Another student reported that female students appeared scared, whereas male students appeared self-assured. Also, one student was aware of complaints filed by female undergraduate students and said that gender affected interactions between professors and students.

When asked whether the low number of female faculty impacts the learning environment, only one student indicated that it did. However, most of the students interviewed were not aware of any female faculty role models, and those who did, only knew one to three female faculty members. A few students expressed that they would like to see more female faculty; one student expressed that having more female faculty would be beneficial to serve as role models and provide guidance.

Most faculty members did not note any difference between the male and female students' learning styles or treatment in their classrooms. However, one faculty member stated that she believed that the low number of female faculty is "bad" and she wished that the DPA hired another female faculty member. Another faculty member stated that he believes that gender equity is a concern; yet, a few other faculty pointed out that the number of female faculty in the DPA is about average when compared to other physics graduate programs in the United States. One faculty member believes that women are treated better than men as students, and that with all things equal, if a man and a woman applied as a faculty or student, the woman would be selected.

The DOE also notes that when the review team conducted its on-site interviews, it came across a campus newspaper with a front page article on female faculty in the engineering department claiming gender discrimination. The OCR review team requested information from the University regarding any action or review that it undertook in relation to the allegations

identified in the article. In its response dated April 2013, while not directly addressing whether or not it took action regarding the specific allegations in the newspaper article, the University stated that it “does not tolerate gender discrimination and [has] been working to increase the number of female faculty across the campus and within the College of Engineering.” The University indicated that in the last year, 50 percent of the faculty hires within the College of Engineering have been female. With 12% of its engineering faculty as women, it contends that it is ahead of the national average of only 8.1% of engineering faculty as women. Furthermore, the DPA’s female faculty representation was greater than the national average during the entire five-year review period ranging from a low of 11.9 percent to a high of 16 percent.

Moreover, the University realizes that it needs to increase the number of female faculty. It therefore participates in programs aimed at increasing overall diversity at the University, such as ADVANCE and Women in Engineering, which actively support the recruitment and retention of female students, postdoctoral candidates, and faculty. The University also noted that no informal or formal complaints have been filed by faculty members of the College of Engineering with the Office of Human Resources or the Office of Equity and Inclusion. The University also provided articles highlighting female scholars at the College of Engineering.

### **B. Campus Safety**

The review team asked graduate students of the DPA whether they believed the campus and surrounding environment were safe. All of the students interviewed stated that they felt that the campus and surrounding environment were safe. Students cited the late night escort service, blue lights and phone booths around campus. Also, several students stated that they felt safe because the campus police were always around and the campus is well lit.

Not all of the faculty believe that the campus and surrounding environment is safe. While most believe it is safe, a few expressed concern that areas close to the campus are not safe, stating that the University should do more about off campus safety. One faculty member stated that there is not a campus bus during the summer semester, which makes it difficult to get home at that time of year.

### **C. Child Care**

The University operates the Early Learning Center (ELC) at two separate locations and the ELC is available to students who need child care. Graduate students have to apply for admission of their children into the ELC. Financial assistance is also available if parents qualify for Delaware’s Purchase of Care program, through which the state assigns a co-pay and the registration fee is waived. Eligibility for financial assistance is based on need for service and income. The ELC is open during the University’s business hours and closed during University-observed holidays, winter holiday break, and for periodic professional in-service days.

Most students who indicated that they were single and did not have children were unaware of the campus child care services. However, many students believed that the University was supportive of students who had families and stated that they were aware of child care services on campus. One student stated that he knows a student who got pregnant and was provided day care.

Another student has seen families on campus and students bring their children to meetings or offices. Yet, one student stated that while the University was supportive of her taking time off, she does not use child care services because it is too expensive.

#### **D. Findings and Recommendations**

The majority of those interviewed stated that they had not been subjected to, nor witnessed, discrimination based on sex within the graduate physics programs. However, a few students and faculty noted that the DPA should hire more female faculty. Notably, most students could not even name a female faculty member. Given that at least 20% of the graduates are women, the DPA should make more effort to add women to its faculty and increase the diversity of its staff. While the University indicated that it participates in ADVANCE and described efforts to increase the number of female faculty in the Department of Engineering, it is unclear whether or not similar efforts were made at the DPA.

As to campus safety, the students expressed feeling safe on campus due to the availability of phone booths and blue lights around campus, the presence of campus police, and the campus being well-lit. Most faculty also expressed that the campus was safe, but a few stated that the surrounding environment was not as safe. Hence, it is recommended that the University address any specific concerns about safety around the campus and surrounding environment by obtaining more information about those concerns from both faculty and students, and then make reasonable efforts to address them.

As to child care availability, the students who had children were generally more aware of child care services on campus than the students who did not have a need for the services. There was mixed feedback about the usefulness of those services. Some students felt that students with families were supported on campus, even noting knowing students who used the child care services, whereas another student expressed that it was too expensive to use. While the financial assistance is available for the ELC through the state, the University may need to provide greater accessibility to and information about those financial resources for students as it appears that some students are not aware of those resources, yet are in need of them.

#### **IX. Title IX Coordinator, Non-Discrimination Policy, and Title IX Grievance Procedures**

Title IX requires each recipient of Federal financial assistance to notify its students and employees of the name, office address, and telephone number of the employee or employees appointed to coordinate and administer its Title IX grievance process. This information should be disseminated through newspapers and magazines operated by the recipient, and by memoranda or other written communication distributed to each student and employee.

In addition, DOE implementing regulations require recipients to prominently include a statement of its policy of non-discrimination on the basis of sex in each announcement, catalog, or application form that it makes available to “applicants for admission and employment, students, employees, sources of referral of applicants for admission and employment, and all unions or

professional organizations holding collective bargaining or professional agreements with the recipient.” 10 C.F.R. Section 1042.135 to 140 (2013).

Recipients are also required to adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints that allege actions prohibited by Title IX. 10 C.F.R. Section 1042.140(b) (2013). The U.S. Department of Justice (DOJ) recommends that grievance procedures include both an informal and a formal process, and also provide complainants with information on their right to file a discrimination complaint with an appropriate Federal agency, if there is no satisfactory resolution of the complaint.<sup>2</sup>

#### **A. The Title IX Coordinator and Notification Requirements**

The Office of Equity & Inclusion (OEI), which is located within the University’s Department of Human Resources, is identified by the University as the office responsible for performing Title IX compliance functions. During the relevant period under review, the University had two Title IX Coordinators and identified the Director of Policy, Compliance & Equity, as its current Title IX Coordinator. In addition to performing Title IX compliance functions, the Title IX Coordinator is responsible for receiving informal Title IX complaints.

The DOE reviewed the University’s website, announcements, catalogs, and applications to determine whether the DPA and/or OEI notified applicants, students, and employees of its Title IX policies concerning non-discrimination on the basis of sex. The DOE also reviewed whether applicants, students, and employees have been informed of the Title IX Coordinator’s identity and the right/how to file a complaint.

In its initial response to the DOE’s data request to describe the methods used by the University to notify students and employees of Title IX requirements, the right to file a complaint, and how to file a complaint, the University stated:

[The University] provides notification by annually sending a Title IX postcard to all faculty and staff in campus mail. All incoming employees are also notified of Title IX requirements, rights, and the compliance process during New Employee Orientation. Incoming students are provided Title IX information at New Student Orientation. Additional Title IX information is shared in residence halls and at workshops conducted around campus to a variety of constituent groups such as human resource liaisons, student conduct hearing officers, department chairs, senior administrators, managers and center directors. Title IX notification and information is also included at the beginning of each academic year in sexual harassment training...for international teaching assistants, teaching assistants, graduate assistants, and residence assistants in the residence halls. Other methods of notification include “Legal Notices” posted on every University website and in University publications and a Sexual Harassment policy brochure. Policy 4-29 which details the rights and process for Title IX complaints in the employee

---

<sup>2</sup> See CIVIL RIGHTS DIV., U.S. DEP’T OF JUSTICE, TITLE IX LEGAL MANUAL (2001) (stating that Title IX also prohibits sexual harassment, and that this prohibition is derived from Title IX’s general prohibition against sex discrimination).

personnel manual and in the student codes of conduct is available online. Further, Title IX trainings and briefings are offered several times each semester and by request from departments/individuals.

The University also stated the DPA faculty attended a presentation conducted by the Title IX Coordinator on Title IX obligations. In addition, it stated that the same presentation was conducted at a graduate student colloquium for the DPA.

The DPA's application for admission to Graduate School is an online process. A copy of the application process provided by the University shows that the application has a non-discrimination policy located toward the end of the process. The non-discrimination policy also informs the applicant that OEI is responsible for handling inquiries related to state and federal anti-discrimination laws. Outreach and recruiting documents provided by the University do not include its Title IX non-discrimination policy. The University also provided copies of recruiting and incentive letters that it sends to prospective physics and astronomy graduate students. Those letters do not include its Title IX non-discrimination statement.

### *1. Student and Faculty Awareness of Title IX and the Title IX Coordinator*

Graduate students and faculty of the DPA were interviewed regarding their awareness of Title IX policies and the coordinator at the University. Most students were familiar with Title IX and some were either not familiar with it or only vaguely familiar with it. Almost all of the students interviewed knew who the Title IX coordinator was, but only because they recently learned this information and the procedure for filing a Title IX complaint in preparation of their interview during the OCR on-campus review. Also, the Director of the OEI stated that graduate students receive a packet of materials in the mail, including information on Title IX. She stated that trainings on Title IX were not mandatory, but strongly encouraged. The Assistant Provost of Graduate and Professional Education stated that the policies the Title IX policies are outlined in the Code of Conduct.

Moreover, according to the University, sexual harassment training is provided to teaching assistants, graduate assistants, and residence assistants at the beginning of each academic year. In addition, OEI holds a sexual harassment training seminar each fall and spring semester, which is open to the entire university community. The OEI website also provides links to the Equal Employment Opportunity Commission's webpage on sexual harassment. Most of the students who were TAs or RAs indicated that they received sexual harassment training. Students also indicated that they received sexual harassment training during orientation.

The faculty who were interviewed knew the name of the Title IX coordinator. The Dean of the College of Arts and Sciences stated that after their office received a "Dear Colleague" letter from the Department of Education, they launched a rapid response by having senior leadership and committee chairs participate in a workshop on Title IX. He stated that a Title IX training is offered to faculty, but that it is not mandatory. Furthermore, less than half of the faculty and administrators interviewed indicated that they received a sexual harassment training at the University.

## *2. Preliminary Observations Announced During On-Campus Visit*

At the conclusion of the on-campus visit, the OCR staff conducted an exit meeting with University administrators. During the exit meeting, the OCR made preliminary observations and requested that the University submit a plan for addressing the observations within forty-five days of the exit meeting.<sup>3</sup>

The first preliminary observation related to the requirement that each recipient notify all of its students and employees of the name, office address, and telephone number of the individual it has designated as the Title IX coordinator. 10 C.F.R. § 1042.135(a) (2013). The OCR informed the University that while many of the students and faculty who were interviewed were aware that the University had a Title IX coordinator, most of them reported that they learned about the Title IX coordinator at a meeting two weeks before their interview in preparation of the OCR review. Therefore, the OCR requested the University to identify methods to further increase awareness about the existence of the University's Title IX coordinator to all students and faculty and of that person's name, office, address and telephone number.

The second preliminary observation related to the requirement that the University implement specific and continuing steps for notifying applicants for admissions, students, and employees, among others, about Title IX's prohibition against sex discrimination. 10 C.F.R. §§ 1042.140(a)(1), 1042.140(b)(1)(2013). The OCR informed the University that many of the students who were aware of Title IX learned about it at a meeting a few weeks earlier in preparation for the review. Therefore, the OCR requested that the University enhance its methods for notifying students and faculty about Title IX and its prohibition against sex discrimination.

The University submitted an implementation plan addressing the OCR's preliminary observations. To address the DOE's preliminary observations, the University stated that it has taken the following actions to ensure that its Title IX obligations are broadly disseminated both within the DPE and to the broader University community:

- "The [DPA's] website now links to the University's "Legal Notices" page which contains the [University's] Notice of Nondiscrimination, including the contact information for the Title IX coordinator and deputy Title IX coordinators."
- "Mass mailings from the [DPA] now include a version of our Notice of Nondiscrimination so that prospective students are aware of the responsible offices on campus charged with handling issues of gender-based discrimination."
- "The [DPA] has also posted sexual harassment and related Title IX brochures, pamphlets and posters in the main office, common rooms and their electronic display board."
- "The Chair has also met with the incoming undergraduate physics majors and informed them of Title IX and advised them of the available reporting channels. Similarly, the Chair met

---

<sup>3</sup> The first two preliminary observations are discussed in the subsection of the report.

with the incoming graduate student class and informed them of Title IX and the reporting channels. The Chair has committed to making these announcements a routine part of his messaging when the undergraduate or graduate students congregate for their regular meetings.”

- The University has launched a “Title IX focused website ([www.udel.edu/titleix](http://www.udel.edu/titleix)) which provides students, faculty and staff a place to learn about Title IX, generally, and its application to our campus.”
- OEI “has created a free-standing online Title IX tutorial that can be accessed by any University member and provides a 30-minute workshop on how to identify issues of sexual harassment and what to do to report such incidents.”
- “The Title IX coordinator and staff members of [OEI] have conducted a number of target Title IX trainings across campus for a variety of constituent groups,” which are the following:
  - 1) Campus Community Response Committee; 2) Office of Student Conduct staff and volunteers (workshops are twice a year); 3) Residence Life professional staff and resident advisor meetings; 4) Counseling Center interns and post-doctoral staff; 5) International teaching assistants; 6) New Faculty Orientation; 7) Graduate students in several departments, including the DPA; 8) Department Chairs (who then provided information to their department faculty); 9) Deans; 10) Athletics and Recreation Services department; 11) University Police Department; 12) Human Resources Liaisons; 13) Human Resources Leadership Council; 14) President’s Roundtable; and 15) Departments, including DPA and the College of Engineering.
- OEI facilitated two workshops on harassment and discrimination that were open to the University community.
- The University has developed a new brochure that is distributed widely to every faculty, staff and student that contains Title IX language and information, and addresses issues of harassment and discrimination.
- The University planned to develop a Title IX Coordinating Council to be comprised of administrators that will research and manage issues of sexual harassment around campus.

### *3. Findings and Recommendations*

The DOE finds that the University has met the basic Title IX requirements of publishing the identity and contact information of DPA’s Title IX Coordinator and OEI, which administers the formal complaint process.

Based on information provided by the University after the OCR Review, and on information published on the University’s Title IX website, we find that the school has met the Title IX

requirement of prominently including a statement of its policy of non-discrimination on the basis of sex in announcements, catalogs, or application forms that it makes available to students and staff, or which is otherwise used in connection with the recruitment of students and employees. As the University indicated, in all of its mass mailings, including to prospective students, its Notice of Nondiscrimination is included, which includes the contact information of the Title IX coordinator and deputy coordinators.

However, the DOE finds that the “Legal Notices” hyperlink located at the bottom of the DPA’s webpage does not fulfill Title IX’s requirement to “prominently include” (or display) a statement of non-discrimination on the basis of sex. A link entitled “Legal Notices” does not immediately lead readers to understand that the DPA does not discriminate on the basis of sex. However, if the DPA does not want to post its full non-discrimination statements on its webpage, a link that reads “Equal Opportunity,” “Non-discrimination Statements,” or some other word or phrase that immediately informs readers that the University has policies against discrimination, would sufficiently fulfill Title IX’s “prominently included” requirement. The DOE recommends that the DPA consider ways to more prominently include or display its Title IX non-discrimination statement on its webpage. Nonetheless, we do commend the University for its Title IX-focused website that it launched after the OCR Review, which outlines and links to the University’s Sexual Misconduct Policy. That website is easily accessible and discoverable through a simple search of “Title IX” on the main University website or through OEI’s website.

While the University has conducted many workshops and trainings on Title IX for the campus community, there was some indication that Title IX and sexual harassment trainings are not mandatory for students and faculty at the University and within the DPA. In particular, the DOE also recommends that the DPA require all faculty and staff to participate in a Title IX-related training, so that they might be better informed about the requirements and prohibitions of Title IX, as well as the University’s sex discrimination and sexual harassment policies.

## **B. Title IX Complaint Procedures and Processes**

After the OCR Review, the University has refined its procedures for internal resolution of sex-based discrimination and sexual harassment complaints that arise within the University community. These procedures apply to acts of “sexual misconduct,” which include sex discrimination, sexual assault, sexual harassment, stalking, dating violence, and domestic violence. The University’s Title IX complaint procedures can be found on the University’s Title-IX-based website which can be easily accessed through OEI’s website, or through a word search of the University’s website, and the Sexual Misconduct Policy handbook that is also available online. Policy 4-29 of the Personnel Policies on unlawful harassment also contains a link to the complaint procedures for sexual misconduct, or pursuant to Title IX.<sup>4</sup>

---

<sup>4</sup> The University’s policies and procedures for Title-IX complaints were previously outlined in Policy 4-29. However, after the OCR review in 2012, the University has developed new procedures for Title IX complaints that are provided through its Sexual Misconduct Policy. Accordingly, this Report will review the current Title IX policy and procedures.

## *1. Who May File a Complaint? When Must the Complaint be Filed?*

The Sexual Misconduct Policy indicates that “[a]nyone, including students, faculty, staff, administrators, vendors, guests, visitors or volunteers, may file a complaint of sexual misconduct with the University Title IX Coordinator, using the Title IX Reporting Form available at [www.udel.edu/sexualmisconduct/title-ix/](http://www.udel.edu/sexualmisconduct/title-ix/) against University students, faculty, staff, administrators, vendors, guests, visitors or volunteers.”

The Sexual Misconduct Policy expressly states that there is no time limit on filing a complaint. It also lists the rights of complainants and respondents during the complaint processing and investigation phases. Moreover, the Policy indicates that students who may have violated the Code of Conduct’s Alcohol Policy are granted amnesty when they are a victim of sexual misconduct. Hence, no alcohol charges are applied to students who report that they were under the influence of alcohol when the sexual misconduct took place.

## *2. Complaint and Investigation Procedures*

### *a. Responsibility to Report Complaint*

The Sexual Misconduct Policy stated that all members of the University community are responsible for making the environment safe and supportive for everyone, which includes reporting safety or security concerns, such as sexual misconduct. The Policy further states that “[a]ny University employee who is not a confidential resource under this policy and who witnesses, is advised of, or learns about an alleged incident of sexual misconduct must promptly notify the University Title IX Coordinator of the incident by email, telephone or using the Title IX Reporting Form available [online].”<sup>5</sup>

If the complainant makes an allegation of sexual harassment, the supervisor/advisor is required to promptly notify the Title IX Coordinator. The Title IX Coordinator may determine that an investigation is warranted without a formal complaint if the University has sufficient notice that sexual harassment may have occurred and/or the allegations of sexual harassment are particularly serious (such as coerced sexual acts). The University may take interim measures during an investigation to ensure the safety and well-being of the complainant and/or University community.

### *b. Title IX’s Coordinator Initial Processing of Complaint*

If someone believes that they have been a victim of sexual misconduct at the University, they may contact the University’s Title IX coordinator or complete the online reporting form.

---

<sup>5</sup> However, the Policy further states that “[a]ny employee who learns about the report will respect the privacy of the complainant. The employee will inform only those who need to know, which will include the University Title IX Coordinator. The employee and the University Title IX Coordinator will not share information about the alleged incident with law enforcement without the complainant’s consent, unless the employee has a duty under University policy, federal or state law (e.g., mandatory reporting of child abuse) to report such an incident to law enforcement or unless the complainant has already reported the incident to law enforcement.”

Moreover, any University employee who is not a confidential resource under this policy and who witnesses, is advised of, or learns about an alleged incident of sexual misconduct must promptly notify the University Title IX Coordinator of the incident by email, telephone or using the Title IX Reporting Form available online. The employee must report to the University Title IX Coordinator all relevant details about the alleged sexual misconduct known to the employee or shared with them.

As stated in the Sexual Misconduct Policy handbook, “[u]pon receipt of a report, the University Title IX Coordinator will:

- ensure that the complainant is aware of rights and resources available to them;
- inform the complainant of the availability of interim measures and the strict prohibition against retaliation;
- advise the complainant of the additional reporting options for an incident of sexual misconduct, including the option to report or not to report to law enforcement;
- inform the complainant of the University’s Sexual Misconduct Policy;
- describe the University’s sexual misconduct investigation process; and
- determine whether an investigation is appropriate, based on the complainant’s wishes and the safety of the overall campus community.”

After receiving a complaint, the Title IX Coordinator will conduct a preliminary assessment to ascertain whether the alleged conduct, as disclosed in the report, would violate a policy and if so, what further action is necessary. The decision is made by the Title IX Coordinator and will be communicated to the complainant.

The Title IX Coordinator will not report an incident of sexual misconduct to the police, unless federal or state law or University policies (for example, mandatory reporting of child abuse) require such an incident to be reported or unless the incident poses a serious safety risk to the campus community.

However, the Title IX Coordinator may determine that an investigation is not necessary. Even if the Title IX Coordinator decides that an investigation is unnecessary, they will ensure that the complainant is aware of their rights and available resources that include:

- “the right to be accompanied to meetings about the incident with up to two support people;
- the availability of confidential resources both on and off campus;
- the availability of medical assistance both on and off campus;
- the availability of interim measures;
- the strict prohibition against retaliation;
- the available reporting options for an incident of sexual misconduct, including the option to report or not report the incident to law enforcement; and
- a copy of [the Sexual Misconduct Policy], which includes a description of the University’s sexual misconduct investigative process.”

If the complainant requests that the University not investigate their complaint or that their name remain confidential, the Title IX coordinator will consider a variety of factors in assessing that request. If the University decides to investigate the complaint despite the complainant's request to not investigate, and the complainant wishes the University to inform the respondent (alleged perpetrator) of that complainant's request, the University will do so and inform the respondent that it made the decision to proceed with the investigation.

**c. Confidential Disclosure of Sexual Misconduct**

The University has confidential resources for individuals who are not prepared to report the sexual misconduct to the Title IX Coordinator or who just want to seek information or support. These confidential resources, such as counselors, student health services or sexual offense support, report non-identifying information to the Title IX coordinator for tracking purposes only. The counselors and advocates will not conduct an investigation into the complaint, but will provide support services for the individual, such as advocacy, academic support or accommodations, disability, health or mental health services and changes to living, working, or class schedules.

**d. Interim Measures**

If appropriate, the University may implement interim measures for individuals involved in the allegations. These may include:

- interim suspension of the respondent from the University;
- removal of the respondent from University housing;
- separating the complainant's and respondent's academic, living or work situations;
- ordering the respondent not to have any contact with the complainant;
- providing transportation or parking accommodations for the complainant;
- offering escort services for the complainant; and
- other measures designed to eliminate any hostile environment created by the alleged sexual misconduct.

The interim measures may remain in place until the end of any appeal process (at which time the interim measures may become permanent measures) or may be modified at any time if appropriate as determined by the appropriate University official.

**e. Investigation of Complaint**

If the Title IX Coordinator determines that an investigation is appropriate, the Title IX Coordinator will advise the complainant and assign an investigator to conduct the investigation. The Title IX Coordinator will also meet with the respondent to provide information about the complaint, the investigative process, their rights, and any interim measures that are implemented. The University will use reasonable efforts to prevent any retaliation against the complainant.

During any meetings related to the University's review or investigation of the report of sexual misconduct, the complainant and respondent may each have up to two support persons with

them, which may include a union representative or attorney. If a complainant chooses not to participate in the investigation or an interview, the University may proceed with the investigation or dismiss the complaint.

The investigation will be conducted by one or more investigators assigned by the Title IX Coordinator. The investigator(s) will also be in charge of reaching a finding as to whether or not the respondent is responsible for the charges in the complaint. The investigator(s) will meet with the complainant, the person who made the report (if separate from the complainant), the respondent and any relevant witnesses. They will also review any relevant information or documents to which they have access. During the investigation, the complainant, respondent or witnesses may provide written statement or other supporting materials, and can identify other witnesses who may have relevant information pertaining to the complaint. If the investigation will take more than thirty days, the investigator(s) will inform the Title IX Coordinator and the parties to the complaint.

#### **f. Findings of the Investigation and Report**

The standard of proof in all sexual misconduct cases is preponderance of the information. Hence, in order to make a finding favorable to the complainant, the investigator will need to conclude that it is more likely than not that the respondent committed sexual misconduct. This burden of proof rests with the complainant.

After the investigation is complete, the investigator(s) will prepare a draft written report with a summary of the information they collected and findings of fact to the Title IX Coordinator. The Title IX Coordinator will notify the parties to the complaint that the draft is available for review. No more than ten days after notice of availability of the draft report will the complainant and respondent be able to submit a written response to the investigator(s), with certain limits on length of the response. Their response may also include additional questions that they believe should have been asked of each other or the witnesses, new relevant evidence and how the situation has impacted them. Afterwards, the investigator(s) will prepare a final report and that will include a finding of responsible or not responsible for each allegation in the complaint.

If there is a finding of responsibility, the parties to the complaint will meet separately with the Title IX Coordinator to learn about the next steps, include appeal rights, and the investigator(s)' report will be forwarded to the appropriate sanctioning authority. If there is a finding of 'not responsible', the parties will meet separately with the Title IX Coordinator, and they will learn about appeal rights.

#### **g. Sanctioning**

Sanctions will be determined on a case-by-case basis with the goal of eliminating the misconduct, preventing its recurrence and remedying its effects. Sanctions may also vary depending on whether the respondent is a student, staff member or administrator, faculty, vendor or volunteer, or visitor. The Sexual Misconduct Policy describes the different types of sanctions for the misconduct and respondent.

#### **h. Appeal Processes**

In requesting the appeal of the decision and/or sanctions, the party who seeks it has the burden of proof and needs to allege one or more of the following:

- “The factual findings on which the final decision is based are clearly erroneous, meaning that they are not supported by any credible evidence in the record;
- The decision is contrary to new information not known at the time of the investigation or sanctioning process;
- Evidence of bias or prejudice by the investigators or the person or panel imposing the sanction;
- Procedures were not followed during the process; or
- One or more of the sanctions imposed are inappropriate or unreasonable.”

The appeal process will also depend on the status of the respondent.

- **Student Respondent:** appeal requests must be filed with the Office of Student Conduct. The non-appealing party (or parties), investigator, Title IX Coordinator, Sanctioning Panel and anyone else deemed appropriate by the University may submit a response to the appeal. Their responses, the appeal, the investigator’s file and respondent’s file will be reviewed by the Appellate Board, who will make a decision on the appeal.
- **Staff Member or Administrator Respondent:** appeal requests must be filed with the Chief Human Resources Officer (CHRO). The non-appealing party (or parties), investigator, the person who issued the sanction and the Director of Employee and Labor Relations may submit a response to the appeal. The CHRO will follow the procedures set forth in the appropriate Staff Grievance Procedure in making a decision on the appeal.
- **Faculty Member Respondent:** If the Dean’s decision is termination, then the procedures set forth in the Faculty Senate Committee on Faculty Welfare and Privileges will be followed for the appeal process. If the Dean issued another decision than termination or the finding is not responsible, the complainant, if another faculty member, may follow the procedures set forth in the Faculty Senate Committee on Faculty Welfare and Privileges, Part II. If the complainant is not a faculty member, they may appeal the Dean’s decision to the Provost, who will also consider responses by the non-appealing party (or parties), the investigator, if appropriate, the Dean who issued the sanction and the Vice Provost for Faculty Affairs.
- **Vendor of Volunteer Respondent:** appeal requests must be filed with the CHRO and the Title IX Coordinator. Along with the responses by the non-appealing party (parties), the investigator and any other person deemed appropriate by the University, the CHRO will issue a decision on the appeal.
- **Visitor of Guest Respondent:** appeal requests must be filed with the CHRO and the Title IX Coordinator. Along with the responses by the non-appealing party (parties), the

investigator and any other person deemed appropriate by the University, the CHRO will issue a decision on the appeal.

### ***3. Findings and Recommendations***

The Department finds that the University's Sexual Misconduct Policy provides for equitable resolution of Title IX-related complaints, in that it provides for: (1) relief for a complainant who has a Title IX-related complaint; (2) a respondent to have an opportunity to respond to the allegations in a complaint; (3) an impartial investigation of a complaint; and (4) an impartial appeal process. Moreover, the University indicates that it will take 30 days to review a complaint and if more time is needed, will inform the parties involved. Therefore, the complaint procedures provide for prompt resolution of the complaint, as required by the Title IX mandates.

The University has also engaged in several promising practices that the DOE would like to highlight. First, the University has developed a very useful and helpful Title IX-focused website and a comprehensive Sexual Misconduct Policy. Moreover, the availability of amnesty for students who violated an alcohol policy at the time they were allegedly subjected to sexual misconduct will only increase the likelihood of victims or aggrieved students to come forward to file a complaint. Furthermore, that the University offers confidential resources for individuals who are not ready to file formal complaints is a good practice to ensure that individuals have access to information and other necessary support services, such as counseling and academic support, regardless of whether or not they choose to report what occurred.

### **C. Title IX Related Complaints/Concerns**

In response to DOE's request for data related to Title IX-related complaints, the University stated that one complaint that alleged sexual harassment by a professor was filed during the academic years under review. The OCR review team was also informed of the complaint by interview subjects during the interview portion of this compliance review. The DOE then requested information regarding the complaint from the University, and has reviewed the complaint and response from the University regarding that complaint. In that complaint, a graduate student complained about sexual harassment by a professor with whom she had a sexual relationship, a hostile work environment, preferential treatment during their consensual sexual relationship, and disfavored treatment upon the ending of their sexual relationship. The University investigated the complaint, interviewing another student who worked with the involved parties and the accused professor, and concluded that the professor's conduct did not rise to sexual harassment, but indicated that his behavior was ill-advised. The University's findings also stated that the professor engaged in behavior that may cross the boundaries into unprofessionalism and "warrant a preventative remedy." It was therefore recommended that the professor engage in mandatory executive mentoring as a corrective action to focus on maintaining appropriate professional interpersonal relationships. The University provided a copy of a document confirming that the individual completed the coaching sessions in April 2011.

The DOE notes that this incident occurred a year before its review and before the University implemented the Sexual Misconduct Policy that details a comprehensive response and

investigative process to Title IX complaints. Here, the University nonetheless responded appropriately by interviewing the involved and relevant parties and suggesting corrective action, despite it finding that there was no sexual harassment. Thus, the University was involved in an impartial investigation that resulted in a resolution of the complaint.

## **XI. Conclusion**

The DOE finds that the DPA's graduate programs have met the basic requirements of Title IX and DOE's implementing regulations. The following areas/practices comply with the nondiscrimination provisions of Title IX and DOE Title IX implementing regulations: 1) student enrollment; 2) recruitment and outreach efforts; 3) admissions policies; 4) leave of absence and re-admission policies; 5) financial assistance opportunities; 6) graduate examination and writing requirements; 7) the academic climate; 8) student safety; and 9) on campus child care services.

The Department also finds that the University has satisfied the requirement under Title IX and DOE Title IX implementing regulations that it 1) designate a Title IX coordinator; 2) notify the campus community about its nondiscrimination policies related to Title IX; and 3) adopt and publish grievance procedures providing for the prompt and equitable resolution of Title IX-related complaints, including sex discrimination and sexual harassment complaints.

As indicated in the Report, the DOE also notes several promising practices instituted by the University. Specifically, the DPA's outreach to students in grade school, particularly girls and young women, is a promising practice as it attracts them to STEM fields of study and career. In addition, the University has engaged in promising practices by instituting separate parental leave policies and by creating an entire website that is focused on Title IX as discussed above.

With regard to any corrective action, the DOE has outlined a few recommendations regarding child care policies, safety, hiring of female faculty, and mandatory Title IX training for staff and faculty as good practices. The University has reviewed these recommendations and stated that it will consider the suggestions for possible implementation. Regardless of whether these suggestions are implemented or not, will not affect DOE's finding that the University is in compliance with Title IX.